that of the English Chancery Courts, and regardless of the purpose or intent of any such combination an agreement to refrain from bidding at a sale was declared invalid and unenforceable as contrary to public policy. *Thompson* v. *Davies* (N. Y. 1816) 13 Johns *112. This extreme stand was soon modified and today the agreement and sale are both enforceable provided the purpose of the contracting parties is not to prevent fair competition. *Phippen* v. *Stickney* (1841) 44 Mass. 384; *Mallon* v. *Buster and Allin* (1905) 121 Ky. 379, 89 S. W. 257; *Hopkins* v. *Ensign* (1890) 122 N. Y. 144; 25 N. E. 306. That the auctioneer at a public or private sale has not fixed his reserve bidding sufficiently high should be immaterial if the conduct of the purchasers has been fraudulent; the agreement and the sale should be unenforceable as contrary to public policy.

CONTRACTS—PRINTED MATTER ON STATIONERY AS PART OF THE AGREEMENT.—A printed paragraph in clear type to the left of the signature, subjecting all transactions of the plaintiff to the rules of the Stock Exchange, was held by the lower court to be part of the contract as a matter of law. *Held,* on appeal, the judgment must be reversed on the ground that the question was one of fact and should have been submitted to the jury. *Goldsmith* v. *Italian Discount & Trust Co.* (Sup. Ct. App. Term, 1st Dept., 1920) 111 Misc. 613, 182 N. Y. Supp. 335.

Where a contract is partly written and partly printed the whole will be construed together and effect given to every term thereof unless the printed language is repugnant to the writing. *Harding* v. *Cargo of* 4,698 *Tons, etc. Coal* (D. C. 1906) 147 Fed. 971. Most courts hold, however, that printed bill heads, or matter in obscure type inconspicuously appearing at the top or bottom of the paper, to which reference is not made in the body of the contract, do not form a part thereof. *Sturtevant Co.* v. *Fireproof Film Co.* (1915) 216 N. Y. 199, 110 N. E. 440; *Sturm* v. *Boker* (1893) 150 U. S. 312, 14 Sup. Ct. 99; *cf. Hadaway* v. *Post* (1889) 35 Mo. App. 278. But where the printed clauses are in large type, prominently displayed, they must be deemed part of the contract. *Poel* v. *Brunswick Balke Collender Co.* (1915) 216 N. Y. 310, 110 N. E. 619. The problem is not to construe the terms of the contract but to establish what the terms are. This is for the jury to determine if doubt exists. *Ohio & Michigan Coal Co.* v. *Clarkson Coal & Dock Co.* (C. C. A. 1920) 266 Fed. 189; *contra, Menz Lumber Co.* v. *McNeeley Co.* (1910) 58 Wash. 223, 108 Pac. 621. Apparently acceptance of a document implies assent to its terms, wherever the offeree actually knows of them, or is reasonably put upon inquiry both by the nature of the instrument and by their display therein, or where reasonable means are taken to put him on inquiry although in fact he does not know of the stipulations. *Watkins* v. *Rymill* (1883) L. R. 10 Q. B. D. 178. By analogy printed matter on the offeror's stationery, when those requirements are met, should, if relating thereto and not repugnant thereto, be incorporated in the contract, unless evidence is adduced to prove a contrary intent of the parties. See Williston, *Contracts* (1920) §90.

DOWER—TENANCY IN COMMON—VOLUNTARY PARTITION.—One O'Steen having died intestate, his ten children, the only heirs at law, took his property as tenants in common. All the children joined in a conveyance to the complainant, O'Steen's widow, but the defendant, the wife of one of the children, did not join, and did not receive any of the proceeds. In an action to quiet title, the defendant set up her dower right. *Held,* for the defendant, since there was no judicial sale for division. *O'Steen* v. *O'Steen* (Ala. 1920) 85 So. 547.

Ordinarily, the inchoate right of dower cannot be defeated by the claim of a *bona fide* purchaser of land from the husband. *Cruize* v. *Billmire* (1886) 69 Iowa 397, 28 N. W. 657. But where there is a tenancy in common, the inchoate dower

right of the wife of each tenant is subject to all the incidents of such tenancy, one of which is a liability to be divested by a judicial sale. *Weaver* v. *Gregg* (1856) 6 Oh. St. 547; *Haggerty* v. *Wagner* (1897) Ind. 625, 48 N. E. 366; Knapp, *Partition* (1887) 189; *contra, Greiner* v. *Klein* (1873) 28 Mich. 12. In New York, by statute, a proportionate share of the proceeds of such a sale is set apart for the wife. Code Civil Procedure §1570. If a partition in kind is perfected, the wife's dower interest is confined to the portion allotted to her husband, whether the partition was by private agreement or by authority of law. *Gaffney* v. *Jeffries* (1900) 59 S. C. 565, 38 S. E. 216; see *Lloyd* v. *Conover* (1855) 25 N. J. L. 47. There seems to be no reason for not extending this rule to voluntary sales for division of proceeds, particularly where the parties are merely doing voluntarily what the law could have compelled them to do, but there is very little authority on the question. See *McLeod* v. *McLeod* (1910) 169 Ala. 654, 53 So. 834. The only objection is that where the proceeds are not paid into court the husband might dispose of his share and thus cut off the wife. But equity could protect her rights by enjoining the husband from disposing of the proceeds before the wife obtained her portion. It is therefore difficult to see why the court in the instant case made the lack of judicial proceedings a determining factor. It should be noted that two of the judges dissented on the ground that it was not the judicial proceeding but the superior right of partition and sale that cut off the right of dower.

INJUNCTION—PERSONAL SERVICES—MUTUALITY OF REMEDY.—The plaintiff, a conductor for many years on the road of the defendant railway company, claimed to be entitled by the terms of his contract to retain the run on which he had been engaged. The company having threatened to replace him on that run by another conductor, the defendant Pennybacker, a preliminary injunction was granted restraining such replacement in favor of Pennybacker. *Gregg* v. *Starks et al.* (Ky. 1920) 224 S. W. 459.

Without discussing the question of adequacy of damages, about which there is some doubt, a further difficulty with the decision in the instant case is that it violates the mutuality rule. *Shubert* v. *Woodward* (C. C. A. 1909) 167 Fed. 47; *Deitz* v. *Stephenson* (1908) 51 Ore. 596, 95 Pac. 803. Though the defendant is forbidden to displace the plaintiff, the plaintiff can at any time leave the defendant's employment and not be answerable to a court of equity. It may be argued in support of the instant case that, as the injunction in terms simply prevents displacing the plaintiff in favor of Pennybacker, and hence that the railroad is still free to discharge the plaintiff and replace him with anyone else. But there is still a restraint placed upon the defendant which is not put upon the plaintiff. He may quit regardless of who is to replace him. The railroad may discharge him only if they do not replace him with Pennybacker. Moreover, it is hard to see what damage the plaintiff will suffer by being replaced by a particular individual. His damage arises from being displaced at all. And, therefore, if he bases his complaint on his being replaced by Pennybacker, since he can show no damage arising from that particular act, the injunction should never have been issued regardless of the mutuality rule. The fact that the injunction in the instant case was merely temporary should make no difference. *Shubert* v. *Woodward, supra.*

INNKEEPERS—HOTEL PROVIDING LODGING ONLY—LIABILITY FOR VALUABLES DEPOSITED.—The defendant owned and operated the Hotel Ohio, where lodging but not food was offered to the public. The plaintiff applied there and was assigned to a room by a person apparently in charge at the desk. The plaintiff deposited his valuables with him and obtained a receipt, acting pursuant to the usual notices which were posted there as required under the law. The person absconded with the